IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.613 OF 2001

Maharashtra Ayurved Vidyarthi Parishad. ...Petitioner.
Vs.
Ganga Education Society & Ors. ...Respondents.
....
Mr. S.M. Kamble i/b. Mr.Mihir Desai for the Petitioner.
Ms. P. V. Badadave for Respondent Nos.1 to 3.
Ms. Smita Mane i/b. Mr. P.B. Shah for Respondent No. 7.
Mr.B. V.Phadnis for Respondent No.8.
Mr. C.R. Sonawane, AGP for Respondent No.9.
.....
CORAM : F. I. REBELLO AND
DR.D.Y.CHANDRACHUD, JJ.

February 28, 2006.

P.C. (Per Dr. D.Y. Chandrachud, J.):

This petition has been filed by a body which claims to represent the interest of students pursuing education in Ayurvedic Colleges. The grievance that has been advanced in these proceedings is that the Second Respondent which conducts an Ayurvedic Medical College at Kolhapur is blatantly doing so despite the regulatory authorities having found that there is a failure to meet infrastructural and academic requirements. The relief which has been sought is for a direction to Respondents 4 to 8 to immediately derecognise and disaffiliate the College, order its closure and to transfer the existing students to another college.

According to the Petitioner, the Second Respondent does not have a Hospital of its own and a Hospital which was constructed on a grant from the Central Government has been rented out to a Trust which is conducting it as a private Hospital. The Petitioner contends that the College has no Hostel for its students; that it does not have a botanical garden; that no books are purchased in actual fact and that the College does not meet the requirement of a well equipped laboratory. It has been submitted that though these deficiencies have been noted, in the inspections that have been carried out of the College, no steps have been taken.

2. An affidavit in reply has been filed in these proceedings on behalf of the Central Council of Indian Medicine on 2nd May 2001 in which it has been stated that the College came to be inspected on 24th July 1998 after which the Council decided to grant permission for the Ayurvedacharya course for 1998-99 with an intake capacity of 65 students. The College was, however, directed not to admit any student in the absence of affiliation and without the permission of the State Government. After another inspection on 20th April 1999, permission was granted for the year 1999-2000. A compliance report was stated to have been

submitted by the College on 2nd December 1999 which was yet to be verified. The Central Council has stated in its reply that the Petitioner has pointed out various irregularities and adverted to several undesirable activities carried out by the Second Respondent. The Central Council has stated that these can only be verified after the College and its facilities are inspected. The Central Council has, however, stated that it will take suitable action under the provisions of the Indian Medicine Central Council Act, 1970. Consequently, it has been prayed that a re-inspection of the Second Respondent may be ordered by the Central Council and if the allegations are found to be true, the State Government may be asked to transfer all the students to another College.

3. The Maharashtra Council of Indian Medicine (MCIM) has filed an affidavit dated 9th April 2001 noting that several complaints had been received in regard to the functioning of the College. MCIM at a meeting of its Executive Committee held on 12th and 13th June 2000 appointed a three-member Inspection Committee. The report of the Committee was discussed by the Executive Committee on 5th September 2000 and it was decided to give time to the Institution to remove the deficiencies that were noted, by 31st

December 2000. On 11th September 2000, a copy of the Inspection Report was submitted to the Institution calling upon it to rectify the deficiencies that were noted by 31st December 2000 failing which, it was stated that recommendations would be made under Section 29(3) of the State Act for deletion of the degree from the Schedule appended to the Maharashtra Medical Practitioners Act, 1961.

4. The Maharashtra University of Health Sciences has filed an affidavit in February 2006of its Deputy Registrar which notes that there are gross deficiencies in the infrastructural facilities provided by the College. A surprise inspection was carried out on 19th September 2003 and upon considering the report, the Academic Council resolved to stop admissions to the College for the Academic Year 2003-04. For the year 2004-05, a Local Inquiry Committee was appointed and the report of the Committee was placed before the Academic Council. The Academic Council resolved on 27th April 2004 to call upon the Institution to rectify the deficiencies within a period of one month. The report of compliance was considered by the Scrutiny Committee appointed for this purpose which resolved to give to the College a period of six

months to rectify the deficiencies. For continuing affiliation for the Academic Year 2005-06, a Local Inquiry Committee was appointed for verification of infrastructural and teaching facilities. The Academic Council in its meeting dated 11th May 2005 noted that there was a deficiency in the number of functional beds in the Hospital. The Council, therefore, resolved to give a period of 45 days to the Institution to rectify deficiencies. The College submitted a compliance report on 11th July 2005. The Committee appointed by the University for verifying compliance, visited the College on 17th August 2005 and, considering the report of the Committee, the University decided to continue affiliation for the Academic Year 2005-06 subject to the fulfillment of the minimum requirement of a functional 100 bedded hospital within a period of two months. Thereafter, the Inspection Committee visited the College on 16th August 2005 when it came to its notice that the College has not yet set right the deficiencies. The College has been thereupon informed on 21st February 2006 to improve the bed strength and to submit compliance thereof immediately.

5. The affidavits which have been filed before the Court on behalf of the Central Council of Indian Medicine and the

Maharashtra Council of Indian Medicine are dated 2nd May 2001 and 9th April 2001 respectively. They were filed nearly five years ago. The affidavits would show that gross deficiencies were noticed even at that stage on the part of the College in providing the required infrastructure. In fact, the Maharashtra Council of Indian Medicine resolved to submit a report to the State Government for action under Section 29(3) of the Maharashtra Medical Practitioners' Act, 1961. Nothing has been placed on the record to demonstrate as to what steps have been taken thereafter. The material which has been placed in the recent affidavit filed in February 2006 by the Maharashtra University of Health Sciences shows that serious deficiencies have been noted in providing infrastructural and other facilities for the conduct of an Ayurvedic Medical College by the Second Respondent. The latest inspection of 16th February 2006 shows deficiencies to the extent of 60% in the teaching staff. Serious deficiencies have been noted in the strength of the non-teaching staff; the availability of books and journals is inadequate; the maintenance of the College building is stated to be poor; the Hospital building which was constructed by the College has been given on rent to Lotus Hospital and is not under the control of the college. The conditions are unhygienic.

An herbal garden as required has not been provided. The state of the Pharmacy is inadequate. The Lecture Halls are insufficient. The total bed strength which is available is 30 beds which is below the norms. Almost every indicator of the infrastructural and other facilities shows gross and serious deficiencies. MUHS has now called upon the College by a letter dated 21st February 2006 to fulfill the requirement of a 100 bedded hospital and to report compliance immediately.

6. The facts which have been brought before the Court are startling. A college which by all accounts does not fulfill the requirements of bare minimum infrastructural facilities continues to function. We are of the view that all the statutory authorities must be directed to take immediate steps to ensure that the College does fulfill the norms that have been prescribed in accordance with law and that if it fails to do so, that necessary action is taken. Since the Maharashtra University of Health Sciences has already taken steps by carrying out an inspection in January 2006 and has followed that by a communication dated 21st February 2006, we direct that MUHS should now proceed to take necessary steps in accordance with law. The Central Council of Indian Medicine shall

carry out an inspection on its part within a period of four weeks and upon the report of the inspection, shall take necessary steps in accordance with law. The statutory authorities must in such a case take all necessary steps so as to ensure that the interest of the students does not suffer on account of the failure of the College to provide even the bare minimum facilities required for the conduct of an Ayurvedic College. We accordingly dispose of the petition in terms of the aforesaid directions. There shall be no order as to costs.

(F. I. Rebello, J.)

(Dr.D. Y. Chandrachud, J.)